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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,447	12/30/1999	DAVID JOHNSTON LYNCH	RCA89.894	6336

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EXAMINER	
CHUNG, JASON J	
ART UNIT	**PAPER NUMBER**
2611	8

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/475,447	LYNCH, DAVID JOHNSTON	
	Examiner	Art Unit	
	Jason J. Chung	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see amendments, filed 2/10/03, with respect to claims 1, 5, and 7 have been fully considered and are persuasive. The art rejections of claims 1-7 has been withdrawn and the examiner has used the same reference, but referring to a different area in the reference.

The applicant argues that the copending application # 09/475,448 is patentably distinct from the instant application. The applicant states no reason as to why the copending application is patentably distinct other than restating the claimed invention and saying they are patentably distinct. The examiner respectfully disagrees with this assertion and maintains the same grounds of provisional obviousness type double patenting with the same motivation as stated below.

The applicant argues that the copending application # 09/475,449 is patentably distinct from the instant application. The applicant states no reason as to why the copending application is patentably distinct other than restating the claimed invention and saying they are patentably distinct. The examiner respectfully disagrees with this assertion and maintains the same grounds of provisional obviousness type double patenting with the same motivation as stated below.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application contains the additional limitations of the supervisor entering a password and the apparatus having a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 of 09/475,448 to include the feature noted above in order to only allow a supervisor with the correct password to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 5 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 5 of the instant application contains the additional limitation of

resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 6 of 09/475,448 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 5 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 6 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 9 of 09/475,448 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 9 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 8 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of copending Application No. 09/475,448. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 8 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 7 of 09/475,448 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 8 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 7 of 09/475,448, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application contains the additional limitations of the supervisor entering a password and the apparatus having a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 1 of 09/475,449 to include the feature noted above in order to only allow a

supervisor with the correct password to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 5 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 5 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 4 of 09/475,449 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 5 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 6 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No.

09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 8 of 09/475,449 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 8 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 8 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 (stated as claim 10 by applicant, but renumbered as 14 by examiner and objected to in the office action) of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 8 of the instant application contains the additional limitation of resolving conflicts using a conflict resolution system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 14 of 09/475,449 to include the feature noted above in order to only allow a supervisor to enter the system and resolve conflicts among multiple instructions in order to choose the appropriate instruction.

Allowance of claim 8 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 14 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Casement et al.

Regarding claim 1, Casement discloses a TV schedule processing system for controlling access to TV programs (column 2, lines 50-52) meets the limitation of a apparatus comprising a video signal processing system for producing an output signal suitable for coupling to a display device to produce a displayed image. Casement discloses blocking programs for viewing by channel, rating, content, and/or time, where a pop-up appears asking for parental password (column 3, lines 33-43) meets the limitation of the video signal processing system having a blocking system which prevents viewing or recording of programs which exceed ratings, spending, and/or view time limits set by a supervisor who has entered a password accepted by the control system. Casement is describing figure 1 in the previously mentioned limitation

rejection, which includes VCRs 32 and 36 (figure 1). Casement discloses an override system for entering instructions to temporarily override ratings (figure 2D), spending (figures 2G, 2H), and/or view time limits (figure 2E). Casement discloses locking TV programs by channel, alternatively the programs may be unlocked (column 4, lines 2-8) meets the limitation to permit specific programs to be viewed. Casement discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of blocking program(s) may be used. Casement discloses the flow chart in figure 4 illustrates the parental control feature wherein the user must enter a correct password in order to tune to the program, schedule, etc. (column 6, lines 68-61). Casement discloses if a rating lock has been set, the user must enter a password (column 7, lines 6-20). Casement discloses figure 2B is shown when a user enters the parental password and the user may lock the TV program by rating and/or content (column 3, lines 66-67 and column 4, lines 1-8). Casement discloses when a user locks shows according to program ratings, all higher rated shows are automatically locked (column 4, lines 43-60). In order to unlock the program when the user tunes to the locked program, the user must enter the correct password. Upon entering the correct password the user selecting the highest rating to be unlocked will inherently unlock the lower rated programs, which reads on resolving conflicts between or among multiple instructions. For example, when the user locks the program according to the rating 'NC-17', higher rated programs of 'X' will also be locked; when the user unlocks programs according to the rating of 'X', lower rated programs from 'NC-17' all the way down to 'G' will inherently be unlocked. The override system of multiple instructions reads on unlocking (overriding) multiple program ratings. The conflict reads on unlocking programs having a high rating by unlocking the highest rating and the user not

clicking on the lower ratings to unlock the lower ratings, so the lower ratings are still being locked. The resolution reads on unlocking lower rated programs when the higher rated program is unlocked. Casement discloses if the user tunes off a previously locked channel the lock will be automatically restored (column 6, lines 8-12).

Regarding claim 2, as disclosed in claim 1 rejection, Casement inherently discloses when the highest rated locked programs are unlocked, the lower rated programs are unlocked. Additionally, as stated in claim 1 rejection, Casement discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of locking program(s) may be used. Unlocking the highest rated programs causing the lower rated programs to be unlocked reads on the supervisor selecting to resolve conflicts according to the most restrictive resolution. For example, in the embodiment where the higher rated programs being unlocked, which makes the lower rated programs unlocked, the programs may still be locked by content, channel, **and/or** time and therefore is still restrictive. Casement discloses the user may unlock all locks (column 5, lines 52-67), which meets the limitation on a supervisor selecting to resolve conflicts according to the least restrictive resolution.

Regarding claim 3, the examiner examines lines 1 and 2, however the examiner does not understand lines 3 and 4. Casement discloses a status display listing channels unblocked (figure 2C). The examiner defines the term "instructions" as meaning locked or unlock. Casement discloses the corresponding time periods according to the instructions (figure 2E).

Regarding claim 4, Casement discloses television receivers 16, 18, 20, and 22 (column 2, lines 58-60 or figure 1). Casement discloses a set-top box 38 (figure 1), which meets the limitation of a cable box. Casement discloses VCRs 32 and 26 (figure 1).

Regarding claim 5, the limitations on claim 5 have been covered in claim 1 rejection. Claim 1 is an apparatus comprising of a video signal processing system, whereas claim 5 is the system contained in the apparatus. Casement discloses turning to a program that is blocked and having to enter a password to unblock the program (column 6, lines 1-3) meets the limitation on the system permitting the supervisor to unblock one specific broadcast program. Casement discloses the programs may be locked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of locking program(s) may be used.

Regarding claim 6, the limitations on claim 6 have been covered in claim 2 rejection. Claim 2 is an apparatus comprising of a video signal processing system, whereas claim 6 is the system contained in the apparatus.

Regarding claim 7, the limitations on claim 7 have been covered in claim 1 rejection. Claim 1 is an apparatus containing a video signal processing system, whereas claim 7 is a processor. Casement discloses PCTVs, which inherently contains processors and the PCTVs are used in the system (column 3, lines 10-13). The limitations on resolving conflicts have been covered in claims 3 and 6 rejections. Casement discloses temporary override instructions that denies viewing by time, for example 2:30 PM-5:00 PM and permits viewing from 5:00 PM-2:30 PM and returns to normal blocking the next day from 2:30 PM-5:00 PM (figure 1, column 4, lines 61-67 and column 5, lines 1-5) Casement discloses a recording scheduled for a recording will prompt a pop up warning the user of conflict (column 5, lines 6-18).

Regarding claims 8-9, the limitations in claims 8-9 have been met in claim 1 rejection.

Regarding claim 10, the limitations in claim 10 have been met in claim 2 rejection.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (703) 305-7362. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

JJC
May 5, 2003

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600